

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

ROBERTO FONTANEZ RIVERA; IRMA
SANTOS DE JESÚS, AND THEIR COMMUNITY
PROPERTY PARTNERSHIP

Plaintiffs

v.

SUIZA DAIRY CORPORATION; TRIPLE –
SALUD, INC.; DELTA DENTAL OF PUERTO
RICO, INC.
Defendants

CASE NO.:

NOTICE OF REMOVAL OF
ACTION UNDER 28 U.S.C § 1331
(FEDERAL QUESTION)

NOTICE OF REMOVAL

TO THE HONORABLE COURT:

Triple-S Salud, Inc. (hereinafter, “Triple-S”), through its undersigned counsel, is invoking this Honorable Court’s federal-question jurisdiction, 28 U.S.C §1331, but without submitting to its personal jurisdiction nor waiving any defenses, and respectfully informs that it has removed this civil action right action, formerly known as the San Juan Superior Court Case No. Number SJ2021CV03138¹, to this District, provided that the complaint squarely invokes, among other state law actions, a federal question, Namely, whether the claimant is entitled to a remedy under the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”), 29 U.S.C § 1161, *et. seq.* This timely removal is warranted, and this Honorable Court should exercise jurisdiction over this action, as well as supplemental jurisdiction over the remaining state law actions included in the complaint.

¹ This Honorable Court should note that on May 28, 2021, the Honorable Judge Glorianne M. Lotti-Rodríguez, emitted an order to transfer the case to the Superior Court in Caguas, Puerto Rico. This order was notified on June 3, 2021. *See* Exhibits II and III.

In support of this notice of removal, Triple-S respectfully states its grounds for removal in a “short and plain statement”:

1. On May 25, 2021, Mr. Roberto Fontanez-Rivera, his spouse Irma Santos De Jesús, and their Community Property Partnership (*Sociedad Legal de Gananciales*), (together, the “Plaintiffs”) filed suit in the Puerto Rico Court of First Instance, Superior Court of San Juan, under the title *Roberto Fontanez Rivera, su esposa Irma Santos De Jesús y la Sociedad Legal de Gananciales compuesta por ambos, vs. Suiza Dairy Corporation; Triple-S Salud Inc; Delta Dental of Puerto Rico, Inc.*, Civil Number SJ2021CV03138 (802) (the “Complaint”).

2. Defendant was served with the summons on May 27, 2021, along with a copy of the Plaintiffs’ Complaint. True and correct copies of “all process, pleadings, and orders” served to Triple-S are attached as **Exhibit I, II and III**, in accordance with 28 U.S.C. §§ 1446(a).

3. In their Complaint, Plaintiffs allege, among others, that Triple-S is the Plan Administrator for Plaintiff’s group health plan under which they were beneficiaries, and that as Plan Administrator, Triple-S failed to notify the Plaintiffs of their rights under COBRA. For such alleged failure, Plaintiffs demand as remedy that Triple-S pay the Plaintiff a statutory penalty provided for under COBRA. *See Complaint*, Exhibit I at p. 0003 & 0010.

4. Accordingly, Plaintiffs’ claim against Triple-S is subject to removal from the Puerto Rico Court of First Instance, Superior Court of San Juan, to the United States District Court for the District of Puerto Rico pursuant to 28 U.S.C. § 1441, provided that the complaint squarely invokes presumed rights and remedies under COBRA.

5. And, because this notice and petition are timely filed within the provisions of 28 U.S.C. § 1446(b), specifically, within ten (10) days from service of the Summons and Complaint, this removal is both timely and warranted, and this Court should thus exercise its original jurisdiction over this action. 28 U.S.C. § 1446(a).

NOTICE

Pursuant to 28 U.S.C. § 1446(d), Triple-S will notify the Plaintiffs of this Notice of Removal by filing a Notice of Filing of Notice of Removal with the Superior Court of San Juan. A copy of the Notice of Filing, which will be filed with the Superior Court of San Juan, is also attached hereto as **Exhibit IV**.

WHEREFORE, pursuant to 28 U.S.C. §§ 1441 and 1446, Triple-S hereby gives Notice of Removal of the above captioned case to this Honorable Court and requests that the cause of action filed before the Puerto Rico Court of First Instance, Superior Court of San Juan, Civil Number SJ2021CV03138, proceed before this Court as an action properly removed.

CERTIFICATE OF SERVICE: WE HEREBY CERTIFY that a copy of this Notice of Removal was sent via email and certified mail to Plaintiffs' attorney of record in the state court proceedings at andres_gorbea@yahoo.com and PO BOX195191, San Juan, Puerto Rico, 00919, and by filing it through the Puerto Rico Court electronic filing system, SUMAC, which constitutes proper service to all parties under Puerto Rico law.

In San Juan, Puerto Rico on June 4, 2021.

ÉCIJA SBGB LLC
Attorney for Triple-S Salud, Inc.
P.O. Box 363068
San Juan, PR 00936-3068
Tel. (787) 300 – 3200
Fax: (787) 300 – 3208

s/Jaime L. Sanabria Montañez
Jaime L. Sanabria Montañez
USDC-PR No. 225307
jsanabria@sbgblaw.com